

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

LUCAS CALIXTO, *et al.*,

Plaintiffs,

vs.

DEPARTMENT OF THE ARMY, *et al.*,

Defendants.

Civil Action No. 18-1551 (ESH)

**DEFENDANTS' MOTION FOR EXTENSION OF TIME TO FILE
OPPOSITION TO PLAINTIFF'S MOTION FOR CLASS CERTIFICATION AND
ANSWER TO THE SECOND AMENDED CLASS ACTION COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 6(b)(1)(A), Defendants, by and through counsel, respectfully submit this motion to extend the time for Defendants to file their opposition to Plaintiff's renewed motion for class certification (ECF No. 62) and the answer to the Second Amended Class Action Complaint (ECF No. 61). Pursuant to Local Civil Rule 7(m), the parties conferred and Plaintiffs oppose this motion. For the reasons provided below, Defendants request a six day extension to file the opposition brief and a two week extension to file the answer. In support of this motion, Defendants state the following:

1. On March 27, 2019, the Court held a conference call with counsel for the parties. The Court informed the parties that Defendants' motion to dismiss (ECF No. 68) will be denied. The Court granted Defendants' motion (ECF No. 66) to defer submission of its substantive opposition to Plaintiffs' renewed motion for class certification, and asked Defendants' counsel for his proposed date to submit the opposition. Defendants' counsel responded with the date of April 17, 2019. Later during the call, in response to an inquiry from Plaintiffs' counsel, the Court asked Defendants' counsel if he could also submit the answer on April 17, 2019, and

Defendants' counsel replied yes. The Court entered a minute order setting the deadline for both Defendants' opposition and answer as April 17, 2019, at 12 pm.

2. Defendants have prepared their opposition brief and intended to file it by the April 17, 2019, 12 pm deadline. However, on April 15, 2019, Defendants' counsel learned that the Army official who will provide the supporting declaration to Defendants' opposition brief is on vacation this entire week due to his children's school spring break. This official is Mr. Lin St. Clair, Assistant Deputy for Recruiting, Office of the Assistant Secretary of the Army for Manpower and Reserve Affairs. Mr. St. Clair has previously provided declarations in this case. *See* ECF No. 22-1; ECF No. 56-1.

3. Due to his vacation, Mr. St. Clair is not available this week to provide information needed to complete his declaration nor to sign the declaration. Mr. St. Clair is uniquely qualified to inform the Court of matters necessary to Defendants' opposition, and no other official with Mr. St. Clair's knowledge of the facts of this case is available to serve as the declarant. Mr. St. Clair is scheduled to return from vacation on Monday, April 22, 2019. The requested six day extension will allow Defendants' counsel to complete Mr. St. Clair's declaration, to obtain his signature on the declaration, and to file it with Defendants' opposition brief by Tuesday, April 23, 2019, at 12 pm.

4. Regarding the answer, in hindsight, during the conference call Defendants' counsel should have requested more time to submit the answer given the complexity of drafting the opposition to Plaintiffs' class certification motion and responding to the allegations in Plaintiffs' 50 page, 213 paragraph complaint. Defendants respectfully request a two week extension of time to file the answer due to the press of counsel's deadlines in other cases, and because Mr. St. Clair's knowledge of the facts of this case is needed to complete the answer. Defendants

respectfully apprise the Court that Defendants' counsel is currently preparing for trial in the case of *Steele v. Shanahan*, Civ. A. No. 13-1229 (APM) (trial dates June 17-20, 2019), and during this week and for the following two weeks will be briefing, opposing, and replying to motions *in limine* in that case.

5. In view of the above, Defendants respectfully request that the Court grant this motion and enter an order requiring that Defendants file their opposition to Plaintiffs' renewed motion for class certification by April 23, 2019, at 12 pm, and to file the answer to the Second Amended Class Action Complaint by May 1, 2019, at 12 pm. Defendants further request that the order accordingly extend Plaintiffs' time to file their reply in further support of their renewed motion for class certification to May 7, 2019, at 12 pm. A proposed order accompanies this motion.

Dated: April 15, 2019

Respectfully submitted,

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Chief, Civil Division

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CERTIFICATE OF SERVICE

I certify that on this 15th day of April 2019, I served the foregoing motion for extension of time upon counsel for Plaintiffs by filing said document using the Court's Electronic Case Filing System.

Dated: April 15, 2019

/s/ Roberto C. Martens, Jr.
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ORDER

Upon consideration of Defendants' motion for extension of time and for good cause shown, it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that Defendants shall file their opposition to Plaintiffs' renewed motion for class certification by April 23, 2019, at 12 pm; and Defendants shall file their answer to the Second Amended Class Action Complaint by May 1, 2019, at 12 pm. It is further ORDERED that Plaintiffs shall file their reply in further support of their renewed motion for class certification by May 7, 2019, at 12 pm.

IT IS SO ORDERED.

Dated: _____

ELLEN S. HUVELLE
United States District Judge